

Department of the Treasury

2 Cupania Circle
Monterey Park, CA 91754
[REDACTED]

Internal Revenue Service
Western Key District (WVDO)

Date: NOV 29 1999

Employer Identification Number:
[REDACTED]

Person to Contact:
[REDACTED]
[REDACTED]

Telephone Number:
[REDACTED]

Fax Number:
[REDACTED]

CERTIFIED MAIL

- Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code of 1954.

The information submitted with your application shows that you were incorporated under [REDACTED]

The purposes for which your organization was formed are to provide for the acquisition, construction, management, maintenance, care of the common areas, and enforce the covenants of the homeowners' association to preserve the appearance of the development.

You have previously been recognized as an organization exempt from Federal income tax under Section 501(c)(7) of the Internal Revenue Code as a social and recreational organization.

[REDACTED] was formed by the real estate developer to own and maintain the common green areas, two parks, a 56 acre lake with two small islands, and earthen dam that creates the lake.

Your activities have included maintaining the dam, lakes, and parks. You enforce rules for the use of the lake and property, including size, type, and operation of boats, and days and hours of use. Use is limited to the lot owners, their immediate families and guests when accompanied by the owner or an adult member of the immediate family.

Information submitted with application indicates some non lot owners may possibly use the park for practice fields for children's sports, but fishing is restricted by the rules of the association to only those persons authorized to use the lake as defined in the above paragraph. This restriction is in place due to small size of the lake and for safety reasons.

ISSUE:

Does the organization qualify for exemption as an organization described in section 501(c)(4) of the Internal Revenue Code?

Law:

Section 501(c)(4) of the Internal Revenue Code exempts from Federal income tax an organization which fosters the common good and general welfare of the community and reads in part as follow:

"(4) ... Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes."

Treasury Regulation section (Reg.) 1.501(c)(4)-1(a)(2)(i) states that an organization will be considered to be operating exclusively for social welfare purposes if it is primarily engaged in promoting the common good and general welfare of the people of the community.

Reg. 1.501(c)(4)-1(a)(2)(ii) states that an organization will be considered to be operated exclusively for social welfare purposes if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community, i. e., primarily for the purpose of bring about civic betterment and social improvement.

Reg. 1.501(c)(3)-1(c)(i) states, "An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals."

Reg. 1.501(a)-1(c) states, "The words private shareholders or individual's in section 501 refers to persons having a personal and private interest in the activities of the organization."

Revenue Ruling 74-17, 1974-1C.B. 130 held that while condominium associations and homeowner's provide similar services, a substantial distinction existed between them. Specifically, the essential nature and structure of condominium ownership both statutory and contractual, is inextricably and compulsorily tied to the owner's acquisition and enjoyment of the property. Basic condominium ownership necessarily involves common ownership of all condominium property in the development, the care and maintenance of which would constitute the provision of private benefit under Internal Revenue Code 501(c)(4).

Revenue Ruling 74-99, 1994-1 C.B. 131 which modifies Revenue Ruling 72-102 provides that in order to qualify for exemption under Internal Revenue Code 501(c)(4), a homeowner's association must serve a "community" which bears a reasonable relationship to an area ordinarily identified as governmental, it must not conduct activities directed to the exterior maintenance must be for the use and enjoyment of the general public.

Analysis and conclusion:

The concept of social welfare includes the provision of benefits to the community at large. The providing of benefits to a narrow group of recipients, in most instances, is not considered as promoting social welfare. Therefore, a social welfare organization may not, if it is to qualify for tax exemption, be operated for the private benefit of the organization's membership or other select groups of individuals or organizations.

Accordingly, we hold that you are not an organization operating exclusively for the promotion of social welfare within the meaning of section 501(c)(4) since you are not primarily engaged in promoting the common good and general welfare of the people of the community but are engaged in promoting the private benefit of your members.

In light of the above, it is the opinion of the Internal Revenue Service that you are not entitled to exemption under section 501(c)(4) of the Code because you are not organized and operated as an organization engaged in the promotion of the common good and general welfare of the people of the community. You are operating for the benefit of members of a select community.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement Form 6018.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the Facts, Law, and any other information in Support of your position as explained in the enclosed Publication 892.

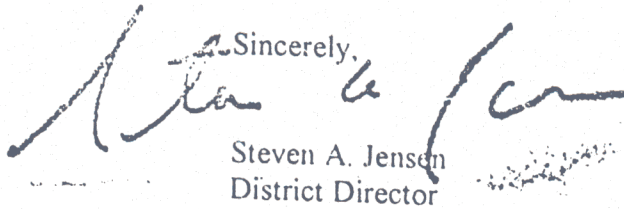
You will be contacted to arrange a date for a hearing. The hearing may be held at the office of the Regional Director of Appeals, or if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will then become the final determination.

If you have any questions, please contact the person whose name appears on the heading of this letter.

Your exempt status under section 501(c) of the Internal Revenue Code as an organization described in section 501(c)(7) is still in effect.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steven A. Jensen", is written over the typed name.

Steven A. Jensen
District Director

Encl.
Publication 892
Notice 1214
Envelope